IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17550 of 2004

Between:

T. Krishna Murthy, S/o of Late Samba Murthy,
Aged about 73 years, Occ: Retired Employee,

Resident of C/32, Malakpet Government Colony, Hyderabad - 36.

..... PETITIONER

AND

1 The Deputy Registrar of Co-operative Societies (Arbitrator), City Circle, Hyderabad.
2 The Deputy Registrar of Co-operative Societies/Officer on Special Duty, (F.A.C.), The Bhagyanagar Co-operative Urban Bank Limited, Abids Road, Hyderabad.
3 Smt. Sharada Devi, Co-operative Sub-Registrar/ Sale Officer,
Bhagyanagar Co-operative Urban Bank Limited, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in demanding the amount as highly arbitrary, illegal and further to direct the respondents not to harass or demand for payment of amount from the petitoner in pursuance of orders passed in E.P. No. 564 of 1999 dated 04-07-2001 and Demand Notice (Distraint Order) dated 04-07-2001 which are issued showing House No. C/32, B-Block, Malakpet Government Colony, Hyderabad.

Counsel for the Petitioner: MR.P.RAVI SANKAR

Counsel for the Respondents: GP FOR COOPERATION

The Court at the admission stage made the following:

ORDER:

The petitioner claims to be a retired Government employee and residing in a Government Quarter. He states that his son by name T. Shanmukh Anand left for Malaysia in the year 1998 and since then he has been staying there. While so, in the year 2001, officials of the second respondent Bank affixed a distraint order issued in E.P.No.564 of 1999 to the house of the petitioner on 04-07-2004, in which it was stated that the son of the petitioner who availed loan from the Bhagyanagar Co-operative Urban Bank Limited, committed default and he is liable to pay a sum of Rs.2,06,161/- together with 22% interest and therefore under Rule 52(3) of The A.P. Co-operative Societies Rules, 1964 (for short, 'the Rules') the officer of the Co-operative department is authorised to distrain the movable property of the defaulter and if the amounts are not paid the said property will be brought to sale. Though the petitioner explained that he is not aware of the said transaction and he is in no way liable to pay the alleged amounts due to the Bank, the officials continued to visit the house of the petitioner from time to time and threatened him for payment. Consequently, the petitioner was constrained to pay a sum of Rs.50,000/-. It is alleged that in spite of the same, the respondents have been pressurising for further payments under the threat of proceeding against the movable properties available in the house of

the petitioner. Hence, this writ petition seeking a declaration that the action of the respondents in harassing the petitioner and demanding for payment of the amount in pursuance of the orders in E.P.No.564 of 1999 as arbitrary and illegal.

I have heard the learned Counsel for the petitioner and perused the material on record.

It is to be noted that under Rule 52 of the Rules, a detailed procedure has been prescribed with regard to the execution of decrees, decisions or orders passed under the Rules. If the petitioner is aggrieved by the action of the respondents and intends to raise an objection as to the attachment of the properties belonging him, it is always open to the petitioner to make a claim as provided under the Rules, in which event, the same will be considered and appropriate orders will be passed in accordance with law. Without exhausting the alternative remedy available under the Statute, the petitioner cannot maintain this writ petition.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to work out the appropriate remedy as available under law within a period of two weeks from today and in the meanwhile there shall be a direction to the respondents not to take any coercive steps against the petitioner and not to sell the movable properties available in the house of the petitioner for a period of three weeks from today.

The writ petition is accordingly disposed of. No costs.

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(G. ROHINI, J)

Date: 30-09-2004

ghn

To

1 The Deputy Registrar of Co-operative Societies (Arbitrator), City Circle, Hyderabad.

2 The Deputy Registrar of Co-operative Societies/Officer on Special Duty, (F.A.C.), The Bhagyanagar Co-operative Urban Bank Limited, Abids Road, Hyderabad.

3 Smt. Sharada Devi, Co-operative Sub-Registrar/ Sale Officer, Bhagyanagar Co-operative Urban Bank Limited, Hyderabad.

4 Two CCs to the Government Pleader for Cooperation, High Court of A.P., Hyderabad.

5 Two CD copies.